

Merit Systems Protection Board

§ 1201.12

the Clerk of the Board in accordance with § 1201.154.

[54 FR 53504, Dec. 29, 1989, as amended at 56 FR 41748, Aug. 23, 1991; 59 FR 65235, Dec. 19, 1994; 61 FR 1, Jan. 2, 1996; 62 FR 17044, 17045, Apr. 9, 1997; 62 FR 66814, Dec. 22, 1997; 65 FR 5409, Feb. 4, 2000; 66 FR 30635, June 7, 2001]

§ 1201.4 General definitions.

(a) *Judge*. Any person authorized by the Board to hold a hearing or to decide a case without a hearing, including an attorney-examiner, an administrative judge, an administrative law judge, the Board, or any member of the Board.

(b) *Pleading*. Written submission setting out claims, allegations, arguments, or evidence. Pleadings include briefs, motions, petitions, attachments, and responses.

(c) *Motion*. A request that a judge take a particular action.

(d) *Appropriate regional or field office*. The regional or field office of the Board that has jurisdiction over the area where the appellant's duty station was located when the agency took the action. Appeals of Office of Personnel Management reconsideration decisions concerning retirement benefits, and appeals of adverse suitability determinations under 5 CFR part 731, must be filed with the regional or field office that has jurisdiction over the area where the appellant lives. Appendix II of these regulations lists the geographic areas over which each of the Board's regional and field offices has jurisdiction. Appeals, however, may be transferred from one regional or field office to another.

(e) *Party*. A person, an agency, or an intervenor, who is participating in a Board proceeding. This term applies to the Office of Personnel Management and to the Office of Special Counsel when those organizations are participating in a Board proceeding.

(f) *Appeal*. A request for review of an agency action.

(g) *Petition for review*. A request for review of an initial decision of a judge.

(h) *Day*. Calendar day.

(i) *Service*. The process of furnishing a copy of any pleading to Board officials, other parties, or both, either by mail, by facsimile, by personal delivery, or by commercial overnight delivery.

(j) *Date of service*. The date on which documents are served on other parties.

(k) *Certificate of Service*. A document certifying that a party has served copies of pleadings on the other parties.

(l) *Date of filing*. A document that is filed with a Board office by personal delivery is considered filed on the date on which the Board office receives it. The date of filing by facsimile is the date of the facsimile. The date of filing by mail is determined by the postmark date; if no legible postmark date appears on the mailing, the submission is presumed to have been mailed five days (excluding days on which the Board is closed for business) before its receipt. The date of filing by commercial overnight delivery is the date the document was delivered to the commercial overnight delivery service.

[54 FR 53504, Dec. 29, 1989, as amended at 58 FR 36345, July 7, 1993; 59 FR 65235, Dec. 19, 1994]

Subpart B—Procedures for Appellate Cases

GENERAL

§ 1201.11 Scope and policy.

The regulations in this subpart apply to Board appellate proceedings except as otherwise provided in § 1201.13. The regulations in this subpart apply also to appellate proceedings and stay requests covered by part 1209 unless other specific provisions are made in that part. These regulations also apply to original jurisdiction proceedings of the Board except as otherwise provided in subpart D. It is the Board's policy that these rules will be applied in a manner that expedites the processing of each case, with due regard to the rights of all parties.

§ 1201.12 Revocation, amendment, or waiver of rules.

The Board may revoke, amend, or waive any of these regulations. A judge may, for good cause shown, waive a Board regulation unless a statute requires application of the regulation. The judge must give notice of the waiver to all parties, but is not required to give the parties an opportunity to respond.